

Remarks

Claims 1-36, 56, 58-80, 97, 101, 108, 120 and 121. Applicants would like to point out to the Examiner that Claim 112 was cancelled in an earlier amendment.

Before addressing the office action on the merits, Applicant would like to thank the Examiner for indicating that Claim 120 is allowed. In an attempt to expedite the current application to allowance, Applicants have deleted all references to hydrates in the claims. Although Applicant has deleted the references to solvates, hydrates and prodrugs in this amendment and/or previous amendments, the deletion of these terms should not be taken as an admission or waiver of rights to that subject matter. Applicant maintains his position that solvates, hydrates and prodrugs are sufficiently enabled in the written description based on the level of knowledge in the art at the time of filing the patent application.

Applicant would also like to point out to the Examiner US Publication No. 2005/0124616 (equivalent to WO 03/076441 published on September 18, 2003). It is important to note that this reference published after the priority date of the present invention and is directed to compounds for the prophylaxis or treatment of a condition or disease associated with a herpes viral infection which is non-analogous to the use of the compounds for the present invention. In addition, Applicant has amended Claim 1 to limit the substituent R² to an optionally substituted aryl.

§112 Rejections

I. Claims 1-36, 56, 58-80, 97, 101, 108, 112(mistakenly included) and 121 were rejected under 35 USC §112, 1st paragraph as non-enabling for hydrates.

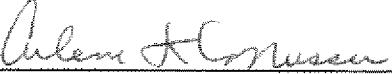
Examiner asserts that the specification is not adequately enabled as to how to make hydrates of the compounds of formula (I) and that examples of a hydrate need to be disclosed. Although Applicants disagree with the Examiner's assertions, the claims have been amended to delete all references to hydrates throughout all of the claims to expedite the application to allowance.

Applicant reserves the right to pursue hydrates in a continuation application. Examiner has refused to recognize Applicant's definition of solvates and hydrates in the specification which defines a solvate as a molecular complex of a compound of the present invention with one or more solvent molecules. Examiner is assuming that all solvates are solid solutions. Applicant's definition is not limited to solid solutions but would also include liquid solutions. A solution by definition requires a complexation of the compound with one or more solvent molecules in order to make a solution. Clearly, Applicant provided numerous examples where the compound was in solution before isolation as a solid.

Based on the amendments to the Claims, Applicant respectfully submits that Claims 1-36, 56, 58-80, 97, 101, 108, 120 and 121 are in condition for allowance.

Respectfully Submitted:

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